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SIPDIS

SENSITIVE

STATE FOR WHA/CEN, WHA/PPC, INL/LP, AND DRL/PHD

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TAGS: [PGOV](#) [KCRM](#) [KJUS](#) [PHUM](#) [HO](#)

SUBJECT: HONDURAN CONGRESS VOTES TO CRIMINALIZE GANG

MEMBERSHIP

¶11. (U) SUMMARY: On August 8, the Honduran National Congress approved a bill banning membership in street gangs and other groups that associate for the purpose of committing crimes. The bill prescribes prison terms for those convicted of being gang members, with sentences ranging from three to 12 years depending on the individual's level of involvement and seniority. Congress unanimously approved the bill, reflecting the overwhelming popular sentiment that the Government do something about gang-related street crime, which in recent years has reached epidemic proportions. President Ricardo Maduro publicly applauded Congress for approving the bill, and there seems to be nothing standing in the way of this legislation entering into force. However, questions persist as to how effective this law will be, and potential concerns for the right to free association in Honduras if abused. END SUMMARY

A Popular Bill Passes Easily

¶12. (U) On August 8, the Honduran National Congress approved a bill banning membership in street gangs and other groups that associate for the purpose of committing crimes. The bill, an amendment to Article 332 of the Penal Code, sanctions "penalties of nine to 12 years of confinement and fines of 10,000 to 20,000 lempiras (USD 575-1,150) for bosses and leaders of groups that associate with the intention of committing (crimes)." The bill also calls for rank and file gang members to be sentenced to a third of the amount of prison time given bosses.

¶13. (U) The bill passed in the National Congress without a single vote in opposition, and President Maduro seems enthusiastic about signing it into law. He said, "As soon as it is published in La Gaceta (the Honduran equivalent of the Federal Registry), we will go immediately to the streets and do what the Honduran people demand." President of the Supreme Court Vilma Morales did not raise any constitutional objections to the bill, but said that the nation's penitentiary system would have to be revamped to accommodate the eminent wave of new prisoners.

A Fix or a P.R. Move?

¶14. (SBU) COMMENT: While the exact number is unknown, it is widely speculated that there are around 30,000 active gang members nationwide, primarily in the major urban centers of Tegucigalpa and San Pedro Sula. Moreover, most of the violent crimes committed in Honduras are reported by the police and by the local news media as being gang-related. Post notes that the GOH is prone to blame almost all violent crime on gang-related violence, disregarding other elements, such as organized crime and narco-traffickers, that also contribute to the high crime rate in Honduras (and often involve the vested interests of corrupt elite). For these reasons, however, this type of legislation is very popular with the majority of Hondurans, who feel threatened by violent crime and are primed for a crackdown on street gangs.

¶15. (SBU) While this new legislation could lead to increased levels of incarceration for Honduran gang members, it is certainly not a panacea for long-term crime fighting. It is reportedly a Honduran derivative of the U.S. Racketeer Influenced and Corrupt Organizations (RICO) statutes, which can be an effective tool but is difficult to prosecute given the challenge of having to prove conspiracy. Also, given the government's budgetary constraints, funding a possible expansion and improvements in Honduran prisons necessary to cope with the probable influx of new prisoners into an already overcrowded and dysfunctional penitentiary system would be difficult. In addition, there is no adjacent legislation to address any of the underlying reasons for crime and gang membership, such as poverty, inequality, and lack of opportunities for economic and social advancement (issues which the Government of Honduras has been less than successful at addressing). If not administered in a just and transparent manner this law could cause concerns for the exercise of civil liberties, especially if a government were

to misguidedly use the law to discourage anti-government activity. END COMMENT.
Pierce